

Legal Basis: Introduction to the Grant Agreement and Consortium Agreement in H2020

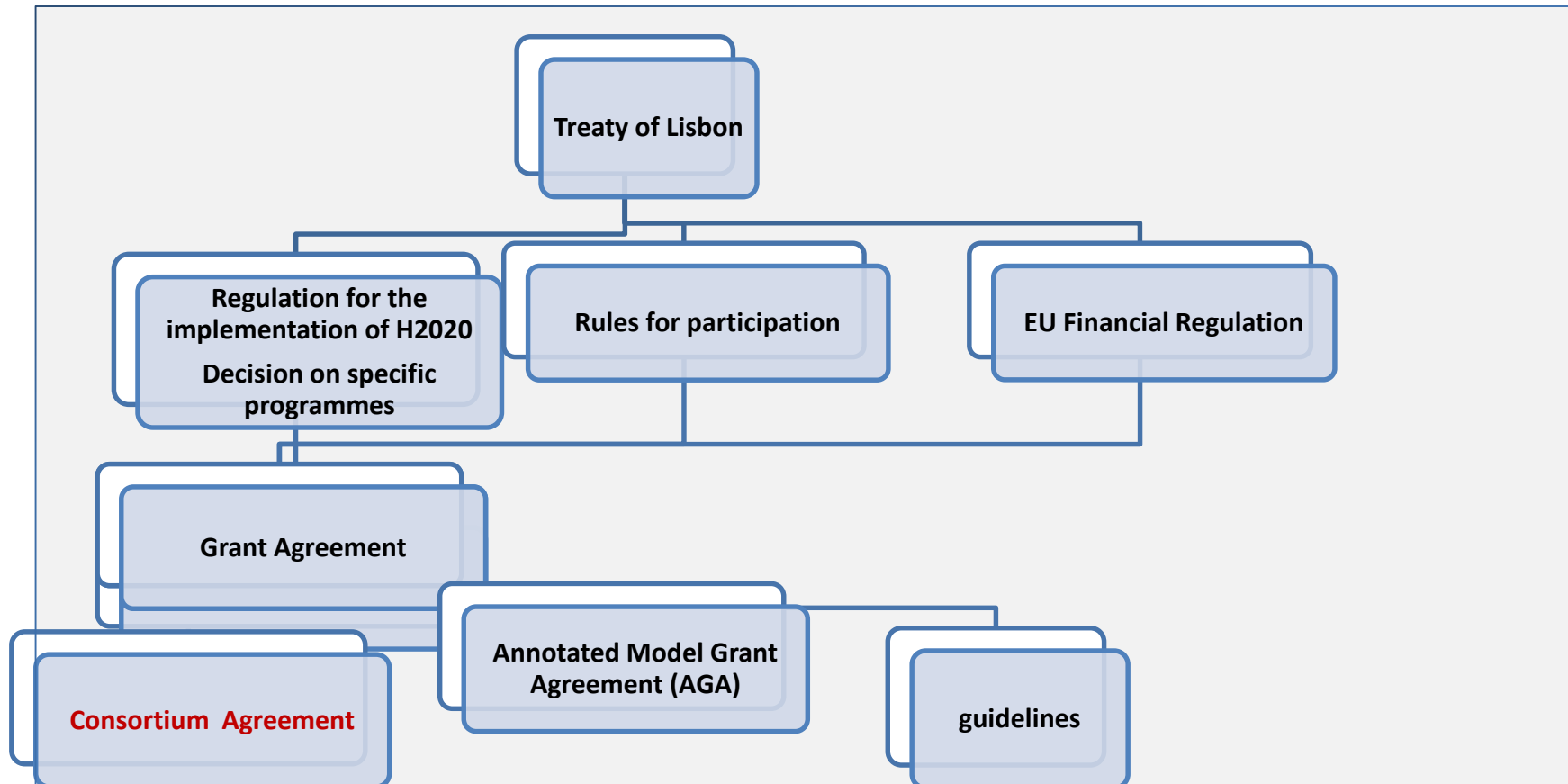
Training on Legal and Financial Aspects,
Zagreb, 21 – 22 February,

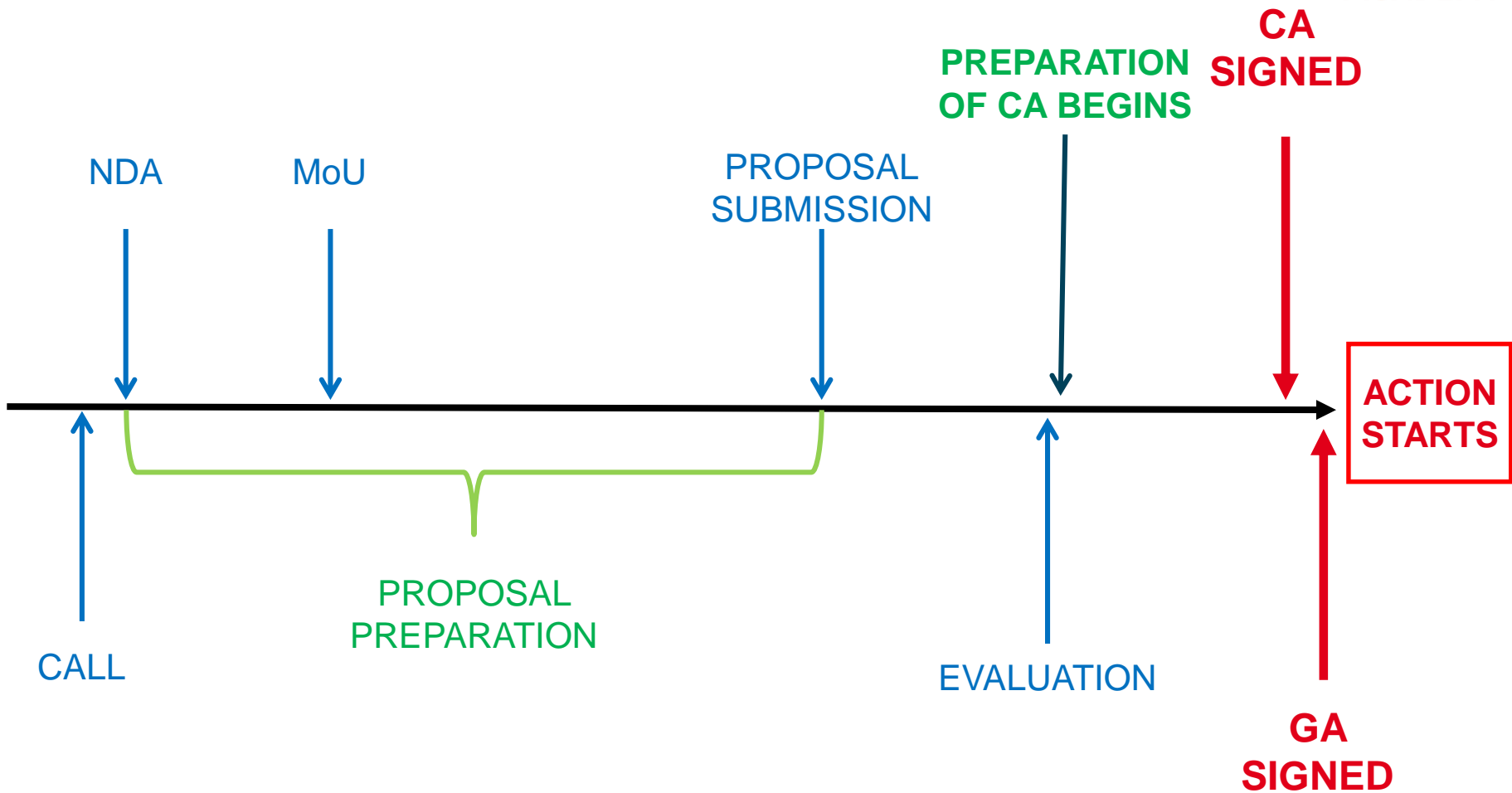
Jiří Kotouček, TC CAS

Agreements

- **What is it good for?**
- **Who are the parties?**
- **Why you have to conclude it?**
- **When is the time to conclude it?**
- **How do you prepare and sign the agreement?**
- **What's the usual content?**

Hierarchy of rules of H2020





Non-Disclosure Agreement (NDA)

- Also confidentiality agreement
- At the beginning of negotiations
- Aim: to bind parties to confidentiality regarding information received from other parties
- Liability

Letter of Intent/Memorandum of Understanding

- Commitment to collaborate on project proposal and on project if granted
- Preparation of provisions of CA
- NDA could be part of this
- Model for H2020 from IPR Helpdesk (with NDA)

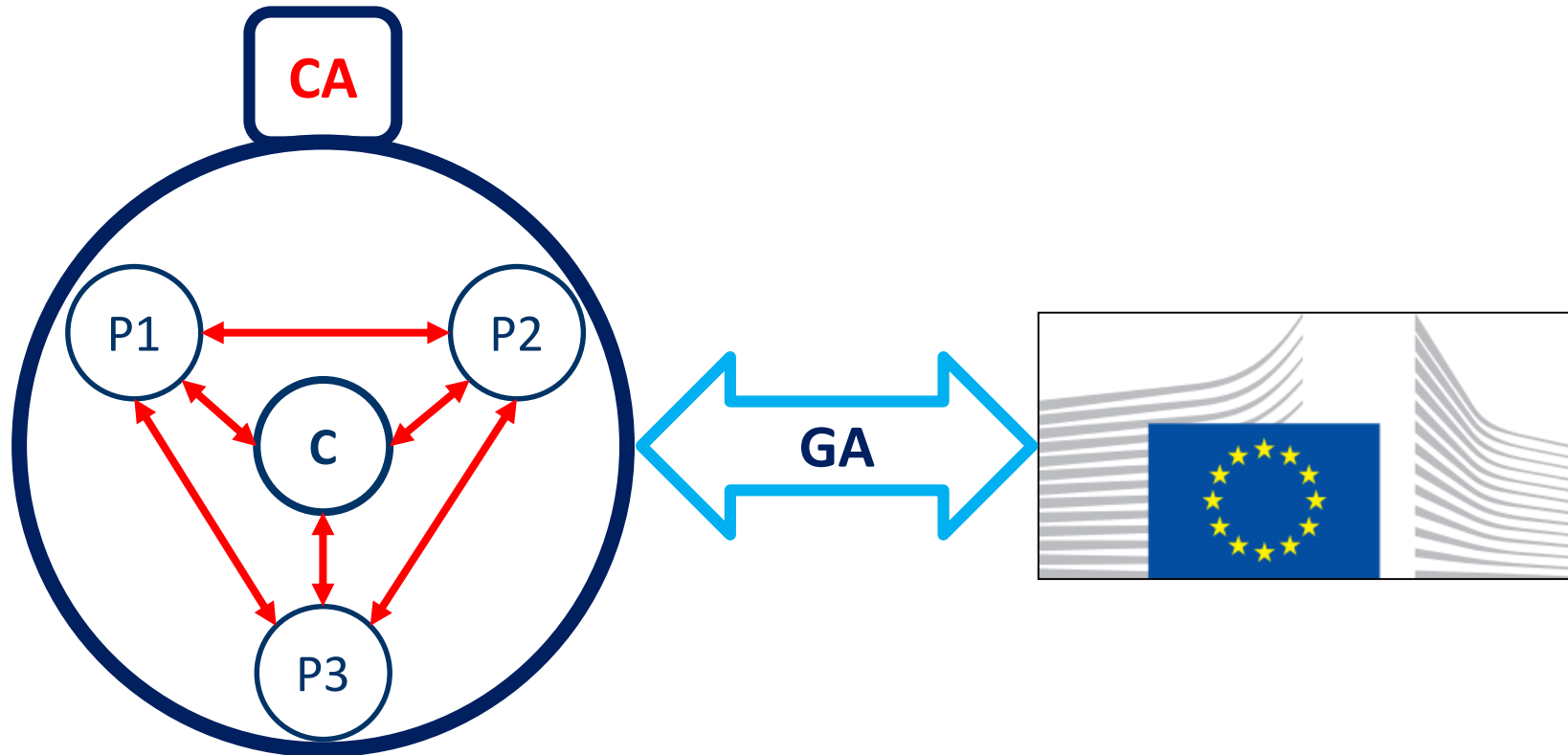
https://www.iprhelphdesk.eu/H2020_MoU

Consortium Agreement (CA)

What?

- Internal agreement between the members of the consortium

Consortium Agreement (CA)



Consortium Agreement (CA)

What?

- Internal agreement between the members of the consortium

Why?

- Beneficiaries must conclude a consortium agreement according to **GA art. 41.3**
 - Unless: exceptionally stipulated otherwise in the respective work programme

Consortium Agreement (CA)

41.3 Internal arrangements between beneficiaries — Consortium agreement

[OPTION to be used, unless the work programme specifies that there is no need for a consortium agreement: The beneficiaries must have internal arrangements regarding their operation and coordination to ensure that the action is implemented properly. These internal arrangements must be set out in a written 'consortium agreement' between the beneficiaries, which may cover:

- *internal organisation of the consortium;*
- *management of access to the electronic exchange system;*
- *distribution of EU funding;*
- *additional rules on rights and obligations related to background and results (including whether access rights remain or not, if a beneficiary is in breach of its obligations) (see Section 3 of Chapter 4);*
- *settlement of internal disputes;*
- *liability, indemnification and confidentiality arrangements between the beneficiaries.*

The consortium agreement must not contain any provision contrary to the Agreement.

[OPTION: Not applicable]

Consortium Agreement (CA)

What?

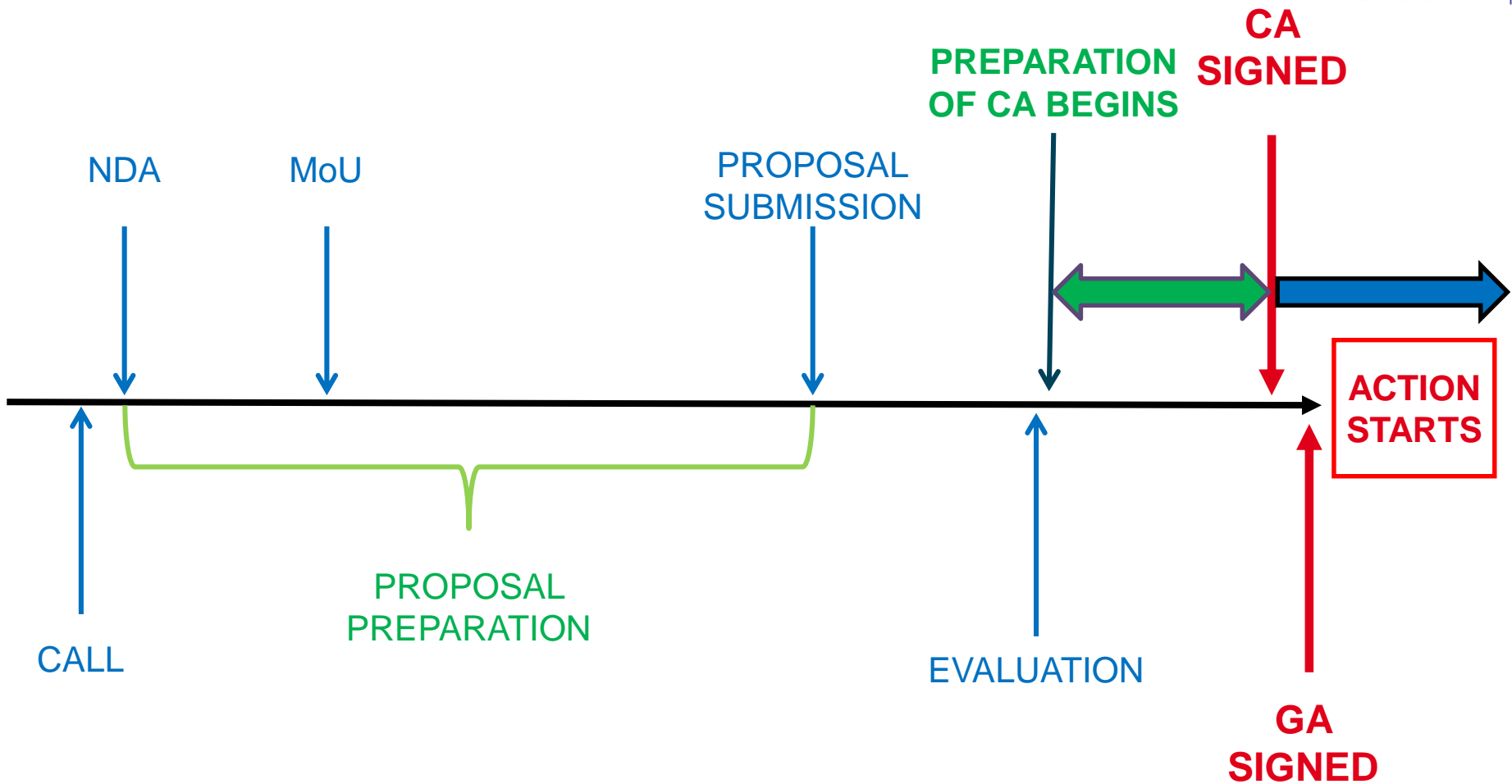
- Internal agreement between the members of the consortium

Why?

- Beneficiaries must conclude a consortium agreement according to **GA art. 41.3**
 - Unless: exceptionally stipulated otherwise in the respective work programme

When?

- Recommendation: **Before signature of GA**



Consortium Agreement (CA)

What?

- Internal agreement between the members of the consortium

Why?

- Beneficiaries must conclude a consortium agreement according to **GA art. 41.3**
 - Unless: exceptionally stipulated otherwise in the respective work programme

When?

- Recommendation: **Before signature of GA**

How?

- Paper version, not via Participant Portal
- Contractual freedom x **Must not be contradictory** to the GA!
- **Models**

Deviations

- Deviations of the standard text of the grant agreement are possible where it is foreseen in the agreement
- Examples:
 - *“The coordinator must distribute the amounts received to the beneficiaries without **unjustified delay** (see Article 21.7).”*
 - 25.1 Waivers of access rights are not valid **unless** in writing
 - 25.3 Requests for access may be made — **unless** agreed otherwise — up to one year after the period set out in Article 3.
- Deviations must not contain any provision **contrary to the GA!** In that case the deviations are invalid.

CA Models: EUCAR

EUCAR Model Consortium Agreement Horizon 2020

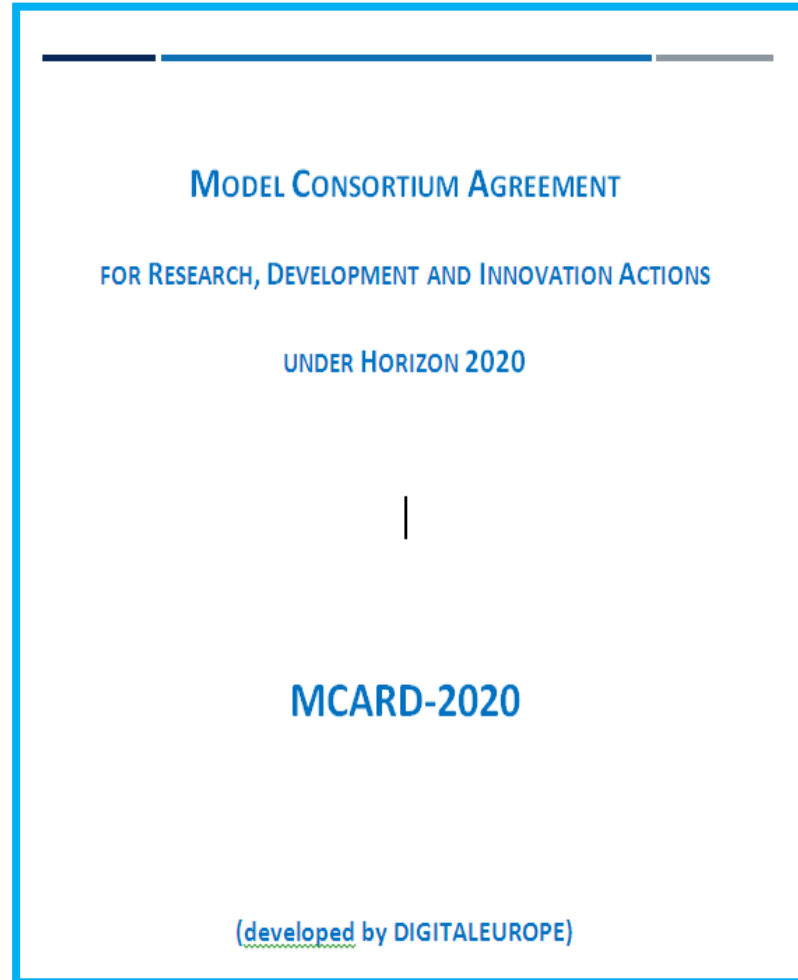
**EUCAR Model Consortium Agreement for the Horizon 2020 Framework Programme for
Research and Innovation
(Funding Scheme Collaborative Projects)**

[Action Title]([Project Short Title])

Consortium Agreement

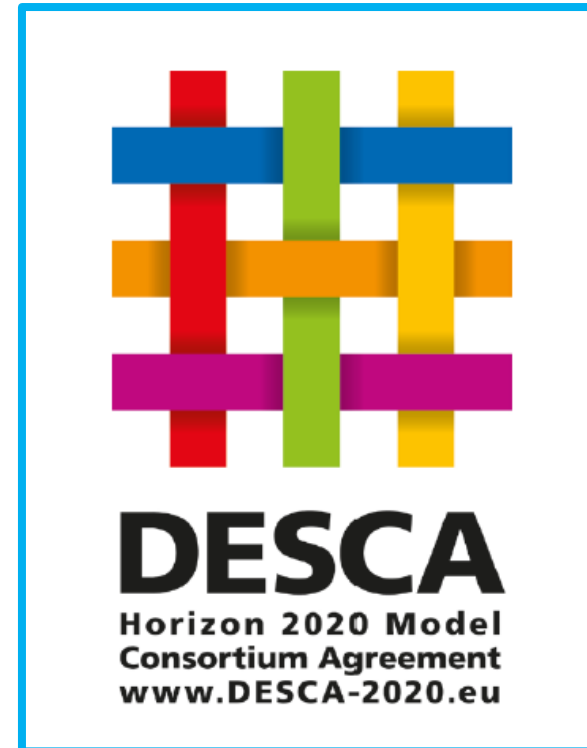
Ref No: _____

CA models: MCARD



CA models: DESCA

- Development of Simplified Model Consortium Agreement
- DESCA Core Group, DESCA Consultation Group
- Used very frequently in FP7
- Adapted on H2020



CA models: DESCA

Content

- General provisions
- Governance structure
- Financial provisions
- IPR provisions
- Non-disclosure of information
- Settlement of disputes

Attachements

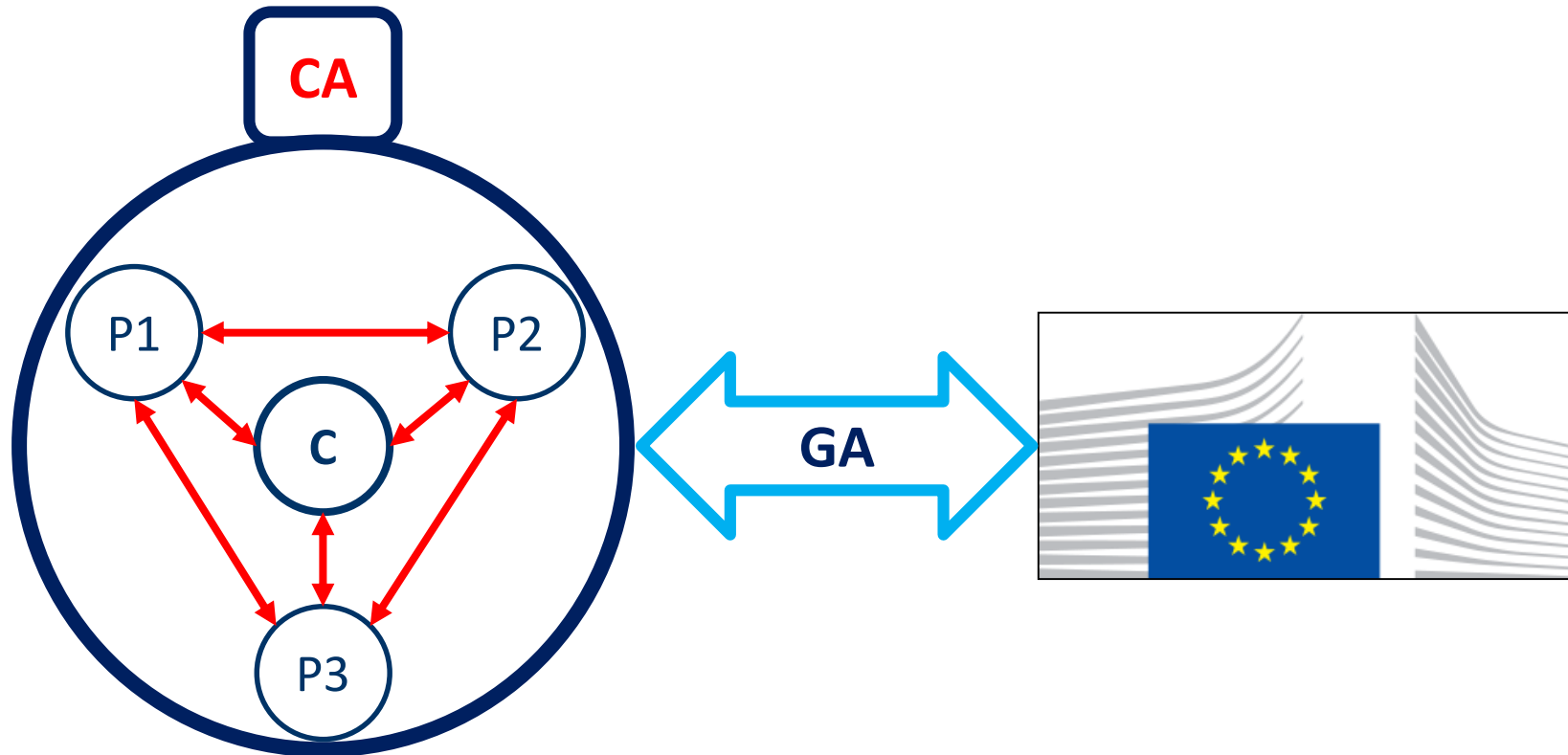
- Background included
- Accession document
- List of Third Parties for simplified transfer



Grant Agreement

- Agreement between EC and beneficiaries
- Rights and obligations of the beneficiaries
- Models for all types of actions:
 - <https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/how-to-participate/reference-documents>

Grant Agreement



Grant Agreement

- Online through Tender and Funding Portal
 - **Coordinator + EC**
 - Other Beneficiaries – Accession Form
- All rights and obligations in the core text
- Possible changes by amendments

Grant Agreement

Content:

- Third Parties
- Grant Administration (incl. Reporting)
- IPR
- Working Conditions
- Ethics
- Confidentiality
- Liability

...

Grant Agreement Annexes

- 1. Description of the Action !**
2. Estimated Budget
3. Accession Forms
4. Model for the financial statements
5. Model for the certificate on the financial statements
6. Model for the certificate on the methodology

....Thank You

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